

ABERDEEN CITY COUNCIL

COMMITTEE	Finance & Resources
DATE	29 th September 2011
DIRECTOR	Pete Leonard
TITLE OF REPORT	National Housing Trust Phase 2 (Developer Led)
REPORT NUMBER:	H&E/11/198

1. PURPOSE OF REPORT

To seek Committee approval to participate in a second phase of the National Housing Trust (NHT) Initiative (the "Initiative") and sign a Participation Agreement with the Scottish Government and Scottish Futures Trust.

2. RECOMMENDATION(S)

It is recommended that Council agrees

1. to participate in the NHT Phase 2 procurement as developed by the Scottish Futures Trust subject to the Directors of Corporate Governance and Housing & Environment continuing to be satisfied that the legal and financial elements of the initiative do not expose the Council to undue risk;
2. that borrowing through the Council's Loan Fund for the scheme be agreed in principle, subject to a maximum of 50 units;
3. that Standing Orders 11 and 26 be exempted if the Participation Agreement does not contain clauses relating to the "Prevention of Corruption" and "Freedom of Information" clauses required by the Council's Standing Orders Relating to Contracts and Procurement;
4. to delegate authority to the Head of Legal and Democratic Services, or her nominated representative, to execute the Participation Agreement on behalf of the Council; and
5. to instruct officers to report to future Committee meetings as further decisions are required.

3. FINANCIAL IMPLICATIONS

If the Initiative leads to properties being delivered the Council will be required to borrow money to provide a loan to the Development Vehicle for up to 70% of the costs. This would be done through the Council's Loans Fund. The remaining 30% of the capital costs would be financed by the private sector developer, with 25% as equity and a 5% loan. The Council's borrowing would be a General Fund activity as the properties would not be owned or operated by the Council. The loan to be provided by Aberdeen City Council could potentially be up to £4.9 million.

The repayment of the borrowing would be serviced from the rental income from the properties, The Scottish Government will underwrite the loans provided by local authorities. This means that if there is a shortfall from the rental income for repayments at a fixed interest rate and future sale of the properties the Government will cover these losses. As previously required by the Finance and Resources Committee on 1st February 2011 the Head of Finance has assessed the financial risks for the Council and agreed with the Convener and Vice Convener of that Committee that there is minimal risk to the Council.

4. OTHER IMPLICATIONS

Any increased provision of good quality affordable housing may make a contribution towards improving availability of housing for homeless households and make a contribution to meeting the housing needs and demands of our citizens.

5. BACKGROUND/MAIN ISSUES

At the meeting on 18th August 2010 Council agreed

1. to participate in the NHT procurement as developed by the Scottish Futures Trust subject to the Directors of Corporate Governance and Housing & Environment being satisfied that the legal and financial elements of the initiative do not expose the Council to undue risk;
2. that borrowing through the Council's Loan Fund for the scheme be agreed in principle, subject to a maximum of 50 units;

At the meeting on 29th June 2011 Council agreed to award a call off contract which should deliver 41 units through the first stage of the Initiative. The call off contract and associated LLP documentation are currently awaiting signing. It is anticipated that the signing will happen by the date of this Committee.

In anticipation of a Phase 2 of the Initiative at the meeting on 1st February 2011 the Finance & Resources Committee agreed to:

- (i) instruct officers to consider the participation in a further phase of the NHT Initiative subject to the Director of Corporate Governance and the Director of Housing and Environment being satisfied that the legal and financial elements of the initiative do not expose the Council to undue risk;
- (ii) agree that borrowing through the Council's Loan Fund for the scheme be agreed in principle, subject to a maximum of 50 units; and
- (v) instruct officers to report to future Committee meetings as further decisions are required.

The Scottish Government has now decided to commence a further phase of the Initiative and the in principal agreement of Committee has been used to inform the Scottish Government of the Council's interest in participating in Phase 2 of the Initiative.

To formalise this position the Council is now required to sign a Participation Agreement by the end of September. The Participation Agreement is the same agreement as previously signed for Phase 1.

During the legal due diligence of the Participation Agreement for Phase 1 it was identified that the Participation Agreement did not contain the "Prevention of Corruption" and "Freedom of Information" clauses required by Standing Orders 11 and 26 of the Council's Standing Orders Relating to Contracts and Procurement. In addition, the Prevention of Corruption Clause required by Standing Order 11 does not form part of the other project documents for the NHT Initiative. Instead, the Scottish Futures Trust asked the Council to accept that the private sector developers involved in the scheme will be asked to complete a declaration at the time of tendering. This is not sufficient to comply with Standing Order 11.

The scheme involves a loan from the Council to a development vehicle (an LLP of which the Council is a member). The loan is guaranteed by the Scottish Ministers. However, the Guarantee involves a warranty by the Council that all the project documents comply with the Council's standing orders. The Guarantee Agreement forms part of the Participation Agreement. Therefore, a formal exemption from Standing Orders 11 and 26 was required and obtained in advance of signing the Participation Agreement.

The exemption was granted by the Chief Executive, the Head of Legal and Democratic Services and the Head of Finance in accordance with Standing Order 1(6)(b) of the Contract Standing Orders as the contract was urgently required to meet the exigencies of the Service. There was insufficient time to seek Committee approval in order to meet the deadline set by the Scottish Government.

The Scottish Futures Trust have been asked to add clauses to the Participation Agreement to satisfy our Standing Order requirements. If they do not agree then the Committee are asked to agree that Standing Orders 11 and 26 be exempted.

Further reports will be presented to Committee for decisions as the procurement process requires.

6. IMPACT

The Community Plan sets out our vision for the future of the city. Our vision is a city which is vibrant dynamic and forward looking an even better place to live and work, where people can expect high quality services that meet their needs.

The delivery of the new affordable housing aims to provide our citizens with an increased supply of affordable rented homes which would support the following challenge in the community plan:

- ◆ Homes Challenge – improving the quality of housing and environment for individuals and the community and eradicating homelessness by 2011.

The provision of affordable housing also aims to fulfill the following Vibrant Dynamic & Forward Looking objectives:

- Work with Registered Social Landlords to develop affordable housing including 2,000 new affordable houses

7. BACKGROUND PAPERS

National Housing Trust Initiative – Participation Agreement

8. REPORT AUTHOR DETAILS

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How does the NHT work?

New build homes are procured from developers, and when a bid from a developer is accepted on to the initiative the developer will complete the homes on their site to agreed standards and timescales. Special purpose vehicles (SPVs) are set up to oversee progress on each developer's site within a council area - these will be companies which won't have any staff, but will have a board of management involving the relevant developer and council and a representative of the SFT. Once the homes are completed, the SPV will buy them by paying between 65 and 70 per cent of an agreed purchase price to the developer upfront. This contribution will be funded by participating councils who will provide loans to the SPVs in their area - councils fund this by borrowing from the Public Works Loan Board. The remaining 30 to 35 per cent will be contributed by the developer as a mixture of loan funding and equity investment.

The homes are expected to be available to tenants for affordable intermediate (mid market) rent for five to 10 years and the developer will oversee an agent(s) who will manage the homes and carry out maintenance and repairs to agreed customer service standards. The managing agents will allocate homes to tenants based on criteria agreed with the council.

Each SPV's income from tenants' rents will be used to pay interest to the local authority so it can finance its own borrowing for the initiative and will also pay interest on the loan from the developer and pay for agents responsible for managing and maintaining the homes. The Scottish Government will provide a guarantee to participating councils that it will step in if there is a problem and the SPV is unable to pay what it owes to the local authority.